APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,546	02/24/2004	Gregory Anthony Welte		3256

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EXAMINER
CAPUTO, LISA M

ART UNIT	PAPER NUMBER
2876	

DATE MAILED: 01/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	10/786,546	WELTE ET AL.
	Examiner	Art Unit	
	Lisa M Caputo	2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

P riod for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>10 November 2004</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-19</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-19</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: _____.

U.S. Patent and Trademark Office
PTOL-326 (Rev. 1-04)   Office Action Summary   Part of Paper No./Mail Date 01212005

DETAILED ACTION

Amendment

1.   Receipt is acknowledged of the amendment filed 10 November 2004.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2.   Claims 1, 8-9, 14, and 18 are rejected under 35 U.S.C. 102(b) as being

anticipated by Griffith et al. (U.S. Patent No. 5,887,176, from hereinafter "Griffith").

Griffith teaches a method and system for remote monitoring and tracking of

inventory. Regarding claims 1 and 9, Griffith teaches a kit that comprises a number of

tags (transponders 16), each attachable to an item (containers or items), a controller

(system controller 12 and interrogators 14) which has a scanning range, and when

activated, periodically inquires (and tests) whether all tags are present within the

scanning range, and if not, issues a warning (when a transponder 16 fails to report

during a scheduled polling cycle, the interrogator 14 issues an immediate warning of a

missing transponder 16 to the system controller 12). Regarding claim 8, Griffith teaches

that the tags are RFID tags (see Figure 1, col 2, lines 15-25, col5, lines 39-61, col 9 line

45 to col 13 line 10). Regarding claim 14, Griffith does indeed teach that a human is

alerted to a warning when it is taught that there exists a display 125 connected to the

system controller 12 and main processor 121 to display data to a user. Such data can

include graphical displays of the raw data from the transponders, processed data

derived from the raw data, warnings or alarm messages, and prompts or input requests

to the user for additional data (see Figure 2, col 4, line 59-65). Regarding claim 18,

Griffith teaches that the means to test is done by a user when it is taught that the

system controller 12 provides the human operator interface to the system, which

incorporates a series of operating parameters 121 stored in memory and selected by an

operator according to the particular application in which the system is used (see Figure

2, col 4, lines 43-58).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3.   This application currently names joint inventors. In considering patentability of

the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

4.   Claims 2-7, 10-13, 16, and 19 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Griffith in view of Rich (U.S. Patent Application Publication

2003/0058110). The teachings of Griffith have been discussed above.

Regarding claims 2, 6-7, and 10, more specifically, Griffith teaches the method of

maintaining tags wherein each tag responds to an interrogation signal by returning an

ID code, and further, that a plurality of different tags return different codes after a time

delay following the interrogation signal (i.e. tag 1 returns ID code 1 after a time delay D1

following the interrogation signal) and if fewer ID codes than the number of tags are

received, a warning is issued. Further, if all tags are present, an all-present signal is

issued (see abstract, col 3, lines 20-35, and col 9, line 39 to col 13, line 67).

Regarding claims 2, 6-7, and 13, 16, and 19 although Griffith does indeed teach

that the transponders are attached to items or containers (see col 2, lines 15-25),

Griffith fails to specifically teach that the tags are placed into an item of luggage (or

more specifically, a purse or briefcase).

Rich teaches a radio frequency patient identification and information system.

Rich discloses that RFID tags are used for installation in a device which can be worn

about the patient's wrist or neck or carried in a wallet or purse in the form of a card or

label (see paragraph 0010) in order to store, read, and update personal medical

information. Hence, Rich teaches that the tags can be placed in a purse, which is an

item of luggage.

In view of the teaching of Rich, it would have been obvious to one of ordinary skill

in the art at the time the invention was made to be able to store and transport the tags

within luggage because it is convenient to be able to have a container to keep valuable

objects safe and to track them with transponders. It is appropriate to combine Rich with

Griffith because both references teach inventory systems, and Rich teaches the use of

luggage as a container more specifically.

Regarding claim 3, Griffith does not specifically teach that the tags are attached

to credit cards in the luggage.

Rich teaches a radio frequency patient identification and information system.

Rich discloses that RFID tags are used for installation in a device which can be worn

about the patient's wrist or neck or carried in a wallet or purse in the form of a card or

label (see paragraph 0010) in order to store, read, and update personal medical

information. Hence, Rich teaches that the tags can be attached to or within patient

information cards. It is well known in the art that an identification card has pertinent

information for a person or patient which can include name, address, and insurance

information. Therefore, account information from a credit card is an art recognized

equivalent piece of information stored on a card.

In view of the teaching of Rich, it would have been obvious to one of ordinary skill

in the art at the time the invention was made to attach a transponder to a credit card

because a credit card is a valuable object that a user does want to keep track of to

ensure that there is no tampering with the card or the corresponding account. It is

appropriate to combine Rich with Griffith because Griffith teaches the attachment of

transponders to different items in containers, and Rich discloses more specifically that a

transponder can be attached and implemented with a card that is within a purse.

Regarding claim 4, Griffith teaches that the tags are non-self-powered (see col 1, lines 40-60).

Regarding claim 5, Griffith teaches that the tags receive operating power from incoming rf energy (see col 3, lines 4-11).

Regarding claims 11-12, Griffith does not specifically teach that the tags are not attached to items when contained in the kit and that the controller and tags are within the field of view of a person.

Rich teaches a radio frequency patient identification and information system. Rich discloses that RFID tags are used for installation in a device which can be worn about the patient's wrist or neck or carried in a wallet or purse in the form of a card or label (see paragraph 0010) in order to store, read, and update personal medical information. Hence, Rich teaches that the tags can be *attached* to or within patient information cards. It is well known in the art that an identification card has pertinent information for a person or patient which can include name, address, and insurance information. Therefore, account information from a credit card is an art recognized equivalent piece of information stored on a card.

In view of the teaching of Rich, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ tags that are able to be attached in the future so that even new items can be accounted for. In addition, it would have been obvious to one of ordinary skill in the art at the time the invention was made to be able to have the controller and tags in plain view of a person so that they are able to keep track of the tags better and can fix any malfunction.

5.   Claims 15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Griffith in view of Tuttle (U.S. Patent No. 6,097,301). The teachings of Griffith have

been discussed above.

Regarding claims 15 and 17, although Griffith teaches that a user is alerted with

a graphical screen, Griffith fails to teach that the alarm issued is audible.

Tuttle teaches an RF identification system with a restricted range that utilizes

tags to keep track of objects such as luggage. Tuttle discloses that the invention also is

useful for baggage handling operators who unload suitcases from an arriving aircraft.

Because a given flight typically stops in several destination cities, the baggage

unloading operators in a given destination city must ensure they only unload baggage

whose intended destination is that city. For this application, the name or identification

code for the current city should be stored in a semiconductor memory in each operator's

interrogator. The interrogator should be programmed to compare the stored city code

with the destination city information transmitted by each tagged object handled by the

operator. In case the intended destination transmitted by a tag differs from the actual

destination stored in the interrogator's memory, the interrogator should present an

audible or visual error warning to the operator. For example, the interrogator might

contain a green light which flashes when the operator picks up a suitcase whose tag

designates the same destination stored in the interrogator, and a red light which flashes

when the tag designates a different destination (see col 8 line 58 to col 9 line 25).

In view of the teaching of Tuttle, it would have been obvious to one of ordinary

skill in the art at the time the invention was made to employ an audible signal as a

warning to a user because an audible signal is very efficient (i.e. it is loud and grabs

one's attention) in alerting consumers as to a malfunction that needs to be corrected, or

if a certain tag is missing.

Response to Arguments

6.　　Applicant's arguments filed 10 November 2004 have been fully considered but

they are not persuasive.

　　　In response to applicant's argument (point 1 on page 7 of the response) that

claim 1 recites a "scanning range" which is singular and Griffith teaches the possibility of

using multiple interrogator units which would constitute two ranges, hence Griffith does

not teach a single scanning range, examiner respectfully disagrees and submits that

Griffith teaches that a main interrogator is used with its singular scanning range, and if

necessary, other interrogators are used, each of the other interrogators having their own

scanning range. In addition, as claimed, "a kit, comprising...a controller which has a

scanning range" is indeed met by Griffith since Griffith does indeed teach a controller

with a scanning range (see col 5, lines 40-60). There is no mention in the claims that

there must only be one controller which has a scanning range.

　　　In response to applicant's argument (point 2 on page 8 of the response) that

claim 1 recites a "kit" and that one definition of a kit is "a set of parts to be assembled"

examiner agrees but submits that a kit is also defined as "A set of articles or implements

used for a specific purpose" (see http://dictionary.reference.com on Notice of Reference

Cited attached). Examiner respectfully submits that Griffith teaches a system that uses

a set of articles (i.e. controller, interrogator) used for a specific purpose (i.e. keeping

track of tags). Examiner further submits that the literal interpretation of Griffith's system as being a kit in which parts are already assembled and analogous to a model airplane kit is incorrect.

In response to applicant's argument (point 3 on page 9 of the response) that Griffith does not teach a human detectable warning, examiner respectfully submits that, as claimed, claim 1 recites that a warning is issued as Griffith teaches in column 13, liens 8-10. Claim 1 does not specifically recite how the warning is issued. Nevertheless, Griffith does indeed teach that a human is alerted to a warning when it is taught that there exists a display 125 connected to the system controller 12 and main processor 121 to display data to a user. Such data can include graphical displays of the raw data from the transponders, processed data derived from the raw data, warnings or alarm messages, and prompts or input requests to the user for additional data (see Figure 2, col 4, line 59-65).

In response to applicant's argument (point 4 on page 11 of the response) that Griffith shows that transponders are already attached to the items and thus are not "attachable" examiner respectfully disagrees and submits that logically, in order for the tag to have been attached to the item, it must have been "attachable." Claim 1 does not recite that the tags have to be able to be removed and have to be "re-attachable." In addition, in order for both systems (both the instant invention and Griffith reference) to be operable for their purpose, the tags must be attached, which Griffith teaches.

In response to applicant's argument (point 5 on page 12 of the response) that the programming of Griffith's system is incorrect, examiner disagrees and respectfully

submits that Griffith teaches a system that is able to be operated like the system in the recited claims.

In response to applicant's argument (point 1 on page 15 of the response), regarding claim 6, that Rich does not teach multiple tags within a singular purse, examiner respectfully disagrees and submits that Griffith teaches the use of multiple tags on items and Rich is used as a secondary reference to show that tags on items are able to be placed into items of luggage such as purses. In addition, it is obvious to be able to carry multiple items within a purse since the purpose of a purse or piece of luggage is to be able to carry multiple items in a convenient, safe place.

In response to applicant's argument (point 2 on page 16 of the response), that the generic container of Griffith cannot be replaced by the purse of Rich, examiner respectfully disagrees and submits that the container is not being replaced by the purse, and that Rich is used to show that the containers with the transponders are placed into another piece of luggage, the purse.

In response to applicant's argument (points 3-6 on pages 17-22 of the response), examiner respectfully submits that the PTO's suggestion is not contrary to common sense, and the combination of Griffith and Rich does indeed teach the system that comprises tags attached to items which are placed within a piece of luggage. In addition, the references are not contrary as both are teaching inventory systems that utilize tags. Further, to reiterate, the Griffith reference teaches that tags are placed on the outside of containers, and Rich teaches that tags may be placed in pieces of

luggage or purses, which is what is recited in the claims. Also, Griffith's interrogation system is not stationary (see col 5, lines 40-60).
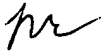
Conclusion

7.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to *Lisa M. Caputo* whose telephone number is **(571) 272-2388**. The examiner can normally be reached between the hours of 8:30AM to 5:00PM Monday through Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached at **(571) 272-2398**. The fax phone number for this Group is (703) 872-9306.

Communications via Internet e-mail regarding this application, other than those
under 35 U.S.C. 132 or which otherwise require a signature, may be used by the
applicant and should be addressed to [lisa.caputo@uspto.gov]. *All Internet e-mail
communications will be made of record in the application file. PTO employees do not
engage in Internet communications where there exists a possibility that sensitive
information could be identified or exchanged unless the record includes a properly
signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is
more clearly set forth in the Interim Internet Usage Policy published in the Official
Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.*

LMC
January 21, 2005

DANIEL STCYR
PRIMARY EXAM